

DEALING WITH INVENTIONS AND COPYRIGHTS

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What Is Intellectual Property?

Patents (Patent Law)

Invention(product, process, production process)/
20 years from application

Utility Model Rights (Utility Model Act)

devices (shape of article, structure)/
10 years from app.

Trademarks (Trademark Law)

mark to use for a product, service/
10 years from registration (renewal)

Design Rights (Design Law)

designs of articles/
25 years from app.

Breeder's Rights (Plant Variety Protection and Seed Act)

new types of plants/
25 years from registration

Copyrights (Copyright Law)

artistic creation/
70 years from date of death

Trade Secrets, etc.

(Unfair Competition Prevention Act)

- : Absolute monopoly rights (rights where ignorance is no excuse)
- : Relative monopoly rights (rights that do not allow copying)

Dealing With Inventions

■ **Determination of patentability (acquisition of right)**

Inventions require **novelty and inventiveness** when compared with prior art. Upon receipt of a request for consultation service, Office of Management and Strategy for Marine Studies conducts interviews and surveys.

■ **Disclosure of invention (lack of novelty)**

Disclosure of the content of the invention through a research paper (or academic meetings, publications) or SNS **may lead to the inability to obtain a patent** for the invention. Thus, confirmation and coordination of the timing of disclosure are required.

In addition, note that related papers that were presented earlier may affect the determination of patentability as well.

How TUMSAT Handles Inventions

(Regulations for Employee Inventions Refer to Exhibit, <https://shokuin.kaiyodai.ac.jp/kisoku/0178.htm> (Japanese only))

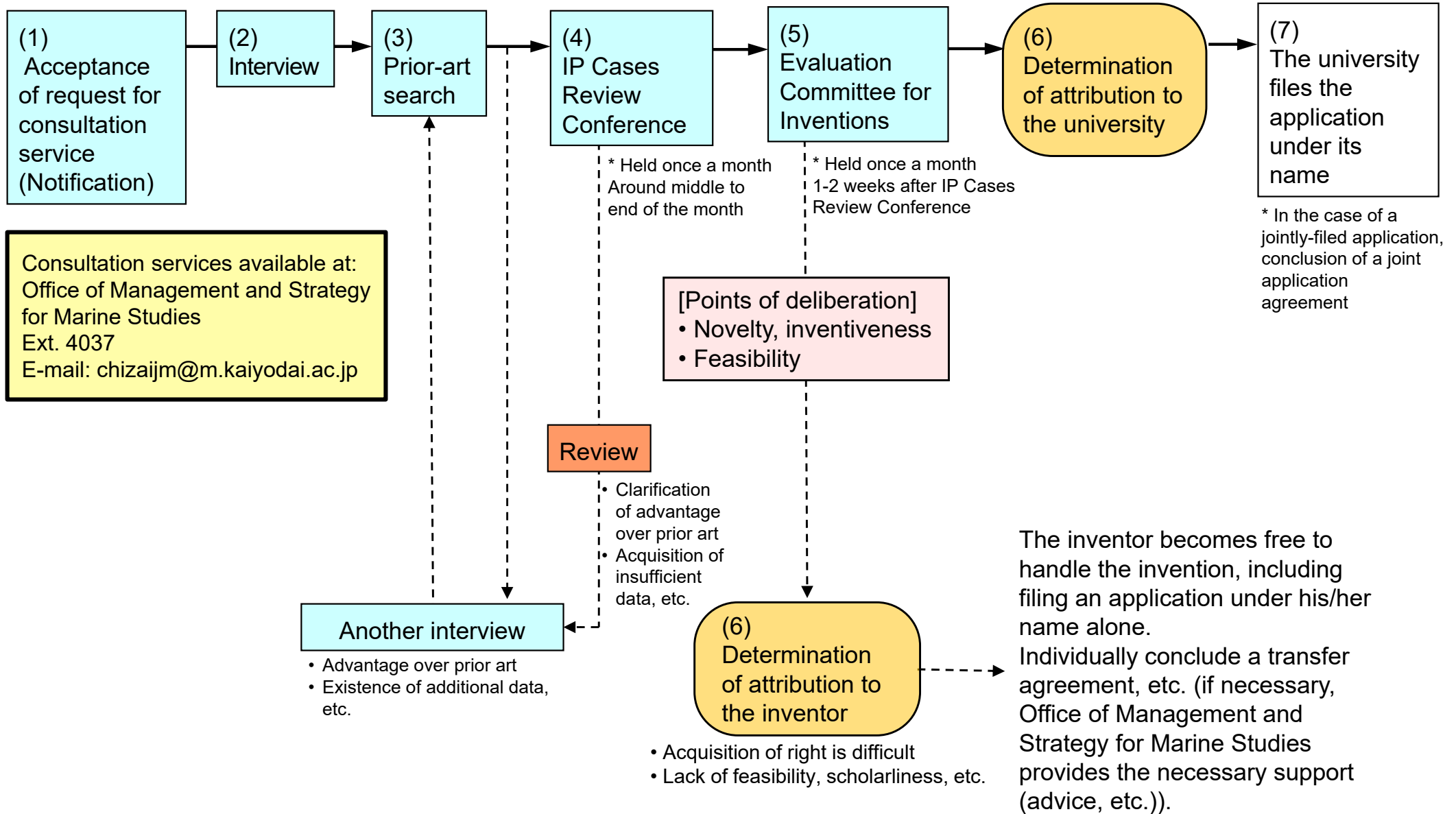
- When inventions and copyrights are officially created by TUMSAT faculty (professors and associate professors), the faculty notifies the university thereof, pursuant to the Regulations for Employee Inventions, and the university determines whether such inventions and copyrights belong to the university.
- If the university determines that the inventions and copyrights belong to the university, applications will be filed under the name of the university.
(Procedural flow: Refer to the next page)

The “**willful application**” or “**transfer of work** (fungus, virus, soil, food, analysis data, etc.), without prior approval, to a third party” is a violation of regulations.

(Regulations for Handling of Research Results Refer to https://shokuin.kaiyodai.ac.jp/kisoku/22_033.htm (Japanese only))

Procedural Flow

It takes at least 2 months from consultation to determination of the attribution of the invention/copyright.



Working With Inventions

(When an invention is created ...)

■ **Confirm inventor**

Inventors are not those who assist with experiments; they are **those who find an idea and create the embodiment of that idea.**

■ **Notify the university of the invention and request for consultation service**

Upon creating an invention, the representative inventor of the university must promptly submit a notification to that effect.

→ **Please discuss with your supervisor when you created an invention.**

■ **What to do with inventors from other institutions**

When inventions are created jointly with researchers from other institutions, coordination with these other institutions is required.

Dealing With Inventions

- Where the inventor desires to file an application for patent after changing his/her organization, note that the applicable rules are those of the inventor's organization **at the time of completion of the invention**, instead of the current organization to which the inventor belongs.
- When the inventor is an adult graduate student studying for PhD or is a PhD student employed by the university, confirm the following points.
 - Within the **purview of company work duties**?
 - Company employee's invention (**Conform to company rule**)
 - **Within the scope** of the project for which the PhD student is **employed**?
 - University employee's invention (**Conform to the university's Regulations for Employee Inventions**)
 - Part of research **for the Doctoral program**?
 - **Individual invention**

If you have questions, contact Office of Management and Strategy for Marine Studies.

Copyrights (An explanation)

■ What are they?

They protect the author's right, etc. with the purpose of contributing to the “cultural development”.

■ Occurrence and period of copyright

Copyright arises automatically when the work is created. There is no need to file an application or take other procedures.

The period of protection is during the author's lifetime

+ **for 70 years after the author's death***

(* With the enforcement of TPP-related laws* on December 30, 2018, the period was changed from 50 years.)

* Laws partially revising the “laws for the establishment of relevant laws relating to the execution of the Trans-Pacific Partnership agreement”

Copyrights (Copyright and Author's Moral Right)

Rights of authors

Author's moral right:

Protection of the author's **moral interests**

Right held only by the author.

Extinguished upon the author's death.

Right to make a work public; right of attribution; right to integrity

Copyright:

Protection of **material interests**

Can be partially or entirely assigned or inherited.

Right of reproduction; right of stage performance/right of musical performance; right of on-screen presentation; right to transmit to the public; right of recitation; right of exhibition; right of distribution; right of transfer of ownership; right of rental; right of translation/right of adaptation, etc.; rights of the original author in connection with the exploitation of a derivative work

Copyrights (What Are Copyrighted Materials?)

What are copyrighted materials?

Works that creatively express ideas or emotions, belonging to the realm of literature, science, fine arts, or music

[Exemplification]

This includes works of fiction, screenplays, **papers**, **plays**, other words, music, dance, wordless plays, paintings, prints, sculptures, other artworks, **architecture**, **maps** or **drawings** of an academic nature; **diagrams**, **models** or other forms of figures, movies, **photographs**, or **programs**.

Copyright infringement

Reproduction, distribution, exploitation, etc. of a work **without the author's consent** (= exploitation allowed with the author's permission)

Examples:

- Creation and use of pirated DVDs
- Reproduction of news articles related to one's own research and distributing the same
- Copying the content of another person's paper or the like and placing the same in one's own paper
- Posting of photographs that show paintings and posters as the subject thereof on a blog
- Online distribution of music or the like without the author's consent
- Printing of slides that were used in class and distributing the same to others without the creator's consent or uploading files containing the same on SNS

Exceptions to copyright infringement

The purpose of the copyright is to contribute to “cultural development.”

It is believed that by defining the scope in which a work can be exploited freely, it will be possible to promote further development of culture and creation of works.

→ “Conditional cases of exception” are established.

For example

- Reproduction for private use (Article 30)
- Quotation (Article 32)
- Reproduction, etc. for persons with visual and vision-related impairments and persons with hearing impairments (Articles 37, 38)

Exception to copyright infringement: Quotation

Published copyrighted works may be quoted from and used in other works. In that case, quotes must conform to fair practice, and be kept within proper bounds if they are used in the media, critiques, and research.

(Copyright Law Article 32, Paragraph 1)

For example

Placing the content of another person's text in one's own academic paper for review of the results

→ In an academic paper, a review cannot be made without indicating the paper or opinion which has been made public, so that it can be interpreted that use of the content, within a reasonable scope, is possible.

Placing the content of another person's text in one's own academic paper for review of the results

However,

it should be noted that use of content in an academic paper is conditional (allowed only within a reasonable scope)!

Conditions for constituting a reasonable scope

- (1) The work to be quoted has **already been made public**.
- (2) There is the **necessity** for a quotation.
- (3) A **clear distinction is made** between the quotation and the author's own content.
- (4) The quotation **shall not be altered**.
- (5) The **subordinate-superior relationship is made clear** between the quotation and the author's own text (**the paper consists mostly of the author's own text**).
- (6) The **source is clearly indicated**.

Example of quotation (1)

本研究は、我が国の地域振興推進における課題と展望に関するものである。

Distinction of the quotation

For example by using brackets, starting a new paragraph, or changing the font.

我が国は、年々少子高齢化が進んでいる。内閣府が発行する「令和元年版高齢社会白書」によれば、“我が国の総人口は、平成 30 (2018) 年 10 月 1 日現在、1 億 2,644 万人となっている。65 歳以上人口は、3,558 万人となり、総人口に占める割合（高齢化率）も 28.1%となった。”ことが報告されている¹⁾。さらに、国立社会保障・人口問題研究所の「日本の将来推計人口」に、下記のような報告がある²⁾。

-この総人口は、以後長期の人口減少過程に入る。平成 52(2040)年の 1 億 1,092 万人を経て、平成 65(2053)年には 1 億人を割って 9,924 万人となり、平成 77(2065)年には 8,808 万人になるものと推計される。-

Do not make any alteration.

人口減少で特に影響が心配されるのは、地方への影響である。現代社会の生活は、多様なサービスの上に成り立っており、一定以上の人口規模を想定して成り立っている。例えば、医療・福祉・教育、金融、電気・ガス・水道などのライフラインに関わるインフラストラクチャー（インフラ）を保持する産業や運輸業・食料品、服飾品の販売など生活に不可欠なサービスである。これらを総称して、生活インフラとも呼ばれる。人口減少により一定の人口規模が保持されなくなると、いくらその地域に不可欠なものであっても、事業撤退を余儀なくされ、結果としてその地域の暮らしが不便になることが危惧される。また、事業撤退が生じると、その事業で雇用されていた人の雇用機会を奪うことにもつながる。暮らしの不便さと雇用機会の減少は、その地域からのさらなる人口流出を招くことは想像に難くない。また宇都 (2012)³⁾は、「人口減少下におけるインフラ整備の課題は、地方部においてより先鋭的に顕在化すると考えられる」と述べている。インフラの整備・管理費用は膨大かつ長期間を要するため、人口が少なく、人口に比例して税収も少ない地方にとっては、将来ではなく、現段階において既に直面している大きな課題と言えるだろう。実際、1975～2000 年にかけて人口減少を経験した 918 自治体を対象に行った野村総合研究所による 2008 年に実施したアンケート調査では、回答のあった 464 自治体のうち 95%が今後のインフラ整備に危機感を持っていたことが報告されている⁴⁾。

Example of quotation (2)

List of cited references (clearly indicate names of written materials)

引用文献：

1) 内閣府. 令和元年版高齢社会白書.

https://www8.cao.go.jp/kourei/whitepaper/w-2019/zenbun/01pdf_index.html. (2020/05/01 最終アクセス)

2) 国立社会保障・人口問題研究所. 日本の将来推計人口.

http://www.ipss.go.jp/pp-zenkoku/j/zenkoku2017/pp_zenkoku2017.asp. (2020/05/01 最終アクセス)

3) 宇都正哲. 人口減少下におけるインフラ整備を考える視点. 日本不動産学会誌. 2012; Vol.25(4). P.43-49.

参考文献：

4) 宇都正哲(2012). 前掲書.p.43-49

→ This is just one example.

Please follow the instructions on how to write cited references, etc., given by the teacher to whom your report will be submitted. The above example intentionally indicates different ways to distinguish a quotation, but the same method should be used throughout an actual report.

Exception to copyright infringement: Use in education

Reference

Copyright Act Article 35

Article 35

A person in charge of teaching or a person taking classes at a school or other educational institution (except one founded for commercial purposes) may reproduce a work that has been made public, or to transmit to the public that work (this includes the right to make the work available for transmission, if the work is to be transmitted to the public via automatic public transmission; the same applies hereinafter), or to transmit to the public through a receiver the work that has been made public and that is being transmitted to the public, to the extent that is found to be necessary if the purpose of doing so is use in the course of those classes; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work, the number of copies that would be made, or the circumstances of its reproduction.

→ Provided that certain conditions are met, reproduction and distribution of a work are allowed at educational institutions.

As a result of the legal revision on May 25, 2018, it became necessary to pay a reasonable amount of compensation to the copyright owner in the case of use for public transmission (such as an online class or on-demand class) (Article 35, Paragraph 2; Since making payment to each copyright owner is very cumbersome in practice, an organization called the “Society for the Administration of Remuneration for Public Transmission for School Lessons” was established).

For questions regarding IP, contact:

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